



Request for Proposals (RFP)

City of Torrance | 3031 Torrance Blvd, Torrance CA 90503 | www.TorranceCA.Gov

RFP No. B2013-53

RFP for Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C)

RFP Submittal Information

Proposals may be mailed or hand delivered. No faxed proposals will be accepted.
Late proposals will not be accepted. No Exceptions.

Location:

Office of the City Clerk
3031 Torrance Blvd.
Torrance, CA 90503

Date:

Monday, November 18, 2013

Time Deadline:

3:00 p.m. Local (Pacific) Time

Submittal Requirements

An original plus four (4) printed copies of your RFP submittal must be submitted in a sealed envelope and marked with the RFP number and title (**RFP for Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C), RFP B2013-53**) by the deadline time deadline listed above. Your submittal must include the following:

- Complete Proposal
- Resumes of no more than three (3) qualified candidates
- Proposal Submittal (Section III of this document, pages 9 through 14) on the forms provided. If additional space is required, please attach additional sheets/pages.
- Proposer's Affidavit (Attachment 1)

Prior to the award of a Contract to the successful vendor, the following is to be submitted to the City of Torrance

- Proof of a City of Torrance Business License, please contact the City of Torrance Business License Office at (310) 618-5923.

Questions Regarding this RFP Should be Directed to:

Elizabeth Overstreet
Engineering Manager
(310) 618-3074
EOverstreet@TorranceCA.gov

RFP No. B2013-53

**RFP for Construction Inspection Services for
the Residential Street Rehabilitation, I-94 (Area C)**

SECTION I RFP INSTRUCTIONS AND INFORMATION

Notice is hereby given that sealed proposals will be received in the office of the City Clerk, City Hall, 3031 Torrance Boulevard, Torrance, CA, until 3:00 p.m. on Monday, November 18, 2013. An original and four (4) printed copies of each proposal must be submitted in a sealed envelope and clearly marked: **"RFP for Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C), RFP B2013-53"**.

The City of Torrance:

The City of Torrance is situated on the western side of Los Angeles County. It is boarded by the Palos Verdes Peninsula on the south, the City of Gardena on the north, the City of Redondo Beach on the north and west boundaries, the City of Lomita on the east and the Pacific Ocean on the west. The City encompasses an area of approximately 21 square miles, 329 miles of Streets, 1870 intersections, 550 miles of sidewalks, 47,000 Street Trees, 6 Public Libraries, a Municipal Airport, 46 Parks & Recreation Amenities, 6 Fire Stations, 1 Police Station and 1 Police Community Center, and has an estimated population of approximately 146,115, which makes Torrance one of the top 10 cities in Los Angeles County in regards to population.

Background:

The City of Torrance Public Works Department is requesting proposals from qualified Firms to provide Construction Inspection Services for the **Residential Street Rehabilitation, I-94 (Area C) B2013-49**. Interested Firms must propose no more than three (3) qualified candidates to be considered for the Construction Inspector position for this project.

Construction of this project is anticipated to commence in April 2014 and continue through October 2014.

Definitions:

| Word | Definition as applied to this RFP |
|--|--|
| City | The City of Torrance, California |
| Vendor/Contractor/Proposer | The person, firm, company or corporation providing services to the City, or submitting a proposal in response to this RFP |
| Contract/Purchase Order/Agreement/Purchasing Agreement | The person, firm, vendor, company or corporation providing services to the City, or submitting a proposal in response to this RFP |
| Engineer | The Public Works Director and/or the City Engineer of the City of Torrance, acting either directly or through properly authorized agents (e.g. Engineering Manager, Project Engineer, or Inspector), and such agents acting within the scope of the particular duties entrusted to them. |
| Candidate/Inspector | The construction inspector proposed in response to this RFP |

Proposal Submittal Form:

The proposal must be made on the form provided for that purpose, enclosed in a sealed envelope, and marked **"RFP for Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C), RFP B2013-53"** and addressed to the City Clerk, City of Torrance, 3031 Torrance Blvd., Torrance, CA 90503. If an individual makes the proposal, it must be signed by that individual, and an address, telephone (and fax number

if available) must be given. If made by a business entity, it must be signed by the person(s) authorized to execute agreements and bind the entity to contracts. A full business address, telephone (and fax number if available) must be given. No telegraphic, fax or telephonic proposal will be considered.

Blank spaces in the proposal form must be filled in; using ink, indelible pencil, or typewriter, and the text of the proposal form must not be changed. No additions to the form may be made. Any unauthorized conditions, limitations, or provisos attached to a proposal will render it informal and may cause its rejection. Alterations by erasure or interlineations must be explained or noted in the proposal form over the signature of the Proposer.

Questions:

Questions must be submitted in writing via email to Elizabeth Overstreet, Engineering Manager, EOverstreet@TorranceCA.gov by 12:00 P.M Noon, local Pacific time on Monday, November 11, 2013. No questions will be answered by telephone. Questions submitted after this date will not be answered. Written answers and any other changes to the RFP will be sent (via email or the US Postal Service) to all known perspective proposers as an addendum to the RFP.

Errors and Omissions:

The proposer will not be allowed to take advantage of any errors and/or omissions in these specifications or in the proposer's specifications submitted with its proposal. Full instruction will always be given when errors or omissions are discovered.

Proposers Examination of Requirements:

The Proposer is required to examine carefully the site, the instructions, information and specifications of this document, investigate the conditions to be encountered, the character, quality and quantities of work to be performed as required by this document. Submission of a proposal will be considered prima facie evidence that the Proposer has made such examination.

Reservation:

The City reserves the right to revise or amend these specifications prior to the date set for opening proposals. Revisions and amendments, if any, will be announced by an addendum to this RFP. If the revisions require additional time to enable vendors to respond, the City may postpone the opening date accordingly. In such case, the addendum will include an announcement of the new proposal submittal due date.

All addenda must be attached to the proposal. Failure to attach any addendum may render the proposal non-responsive and cause it to be rejected.

The City reserves the right to award a contract to a company solely on the basis of the initial proposal submitted. The City reserves the right to require more information and clarification on information submitted in the proposal to complete the evaluation.

The City Council reserves the right to reject any and all proposals received, to take all proposals under advisement for a period not to exceed ninety (90) days after the date of the opening, to waive any informality on any proposal, and to be the sole judge of the relative merits of the material and or service mentioned in the respective proposals received. The City reserves the right to reject any proposal not accompanied with all data or information required.

This Request for Proposals does not commit the City to award a contract or to pay any cost incurred in the preparation of a proposal. All responses to this RFP document become the property of the City of Torrance. The City reserves the right to examine all factors bearing on a Proposer's ability to perform the services under the contract. The City reserves the right to reject any proposal not accompanied with all data or information required. The City reserves the right to cancel this solicitation, without penalty, at its sole discretion.

Affidavit:

An affidavit form is enclosed. It must be completed signifying that the proposal is genuine and not collusive or made in the interest or on behalf of any person not named in the proposal, that the proposer has not directly or indirectly induced or solicited any other proposer to put in a sham proposal or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure for itself an advantage over any other proposer. Any proposal submitted without an affidavit or in violation of this requirement will be rejected. (Attachment 1)

Evaluation of Proposals:

The City will be the sole determiner of suitability to the City's needs. Proposals will be rated according to their completeness and understanding of the City's needs, conformance to the requirements of the technical specifications, compatibility with the City's current technology and operations, prior experience with similar scope of work, financial capabilities, delivery, and cost. Cost including any ongoing maintenance and support cost will be reviewed to determining which proposal best meets the needs of the City.

The City's project evaluation team will evaluate proposals based on the evaluation criteria listed below. Points will be assigned to each criterion up to a maximum of 100 points. Proposals will be ranked and that ranking will be made public.

Subsequently, the City may interview a qualified Firm, prior to deciding whether or not to recommend the award of an Agreement.

| Description of Evaluation Criteria | Possible Points |
|--|-----------------|
| Firm's qualification and experience with Public Works projects and Firm's References | 10 |
| Proposed candidates' qualifications | 10 |
| Proposed candidates' experience with similar projects | 30 |
| Proposed candidates' references | 20 |
| Proposed wage rates and/or fee | 30 |
| Maximum Total Points = | 100 |

The Contract:

The Firm to whom the award is made will be required to enter into a written contract with the City of Torrance. Attached is a copy of the City's standardized contract (Attachment A), which will be modified to reflect the awarded RFP. A copy of this RFP and the accepted proposal will be attached to and become a part of the contract.

Contract Term:

The initial contract will be for a period of 1 year, from date approved by City Council.

Independent Contractor:

The successful proposer is, and will at all times remain as to the City, a wholly independent contractor. Neither the City nor any of its agents will have control over the conduct of the Contractor or any of the Contractor's employees, except as otherwise set forth in the awarded Agreement. The Contractor's agents and employees are not and will not be considered employees of the City for any purpose. The Contractor may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City. The City has no duty, obligation, or responsibility to the Contractor's agents or employees under the Affordable Care Act. The Contractor is solely responsible for any tax penalties associated with the failure to offer affordable coverage to its agents and employees under the Affordable Care Act and any other liabilities, claims and obligations regarding compliance with the Affordable Care Act with respect to the Contractor's agents and employees. The City is not responsible and will not be held liable for the Contractor's failure to comply with the Contractor's duties, obligations, and responsibilities under the Affordable Care Act. The Contractor agrees to defend, indemnify and hold the City harmless for any and all taxes and penalties that may be assessed against the City as a result of the Contractor's obligations under the Affordable Care Act relating to the Contractor's agents and employees.

Payments:

The Firm must submit hardcopy invoices on a monthly basis to the City's Finance Department/Accounts Payable Division, 3031 Torrance Blvd, Torrance CA 90503. An electronic copy of monthly invoice shall be sent to the Project Engineer via email. Progress payments on the contract price will be made in approximately thirty (30) days from date of delivery, or completion and acceptance, unless otherwise provided for in Proposer's proposal or in these specifications. Payments will be made upon verification and acceptance by the City of contract services performed and upon the City's receipt of a correct invoice.

Suspension of Procurement:

The City may suspend, in writing all or a portion of the procurement of materials or services pursuant to this RFP and subsequent contract agreement, in the event unforeseen circumstances make such procurement impossible or infeasible, or in the event City should determine it to be in the best interest of City to cancel such procurement of services or materials.

In the event of termination, selected Proposer will perform such additional work as is necessary for the orderly filing of documents, and closing of project.

The selected Proposer will be compensated for the terminated procurement on the basis of materials or services actually furnished or performed prior to the effective date of termination, plus the work reasonably required for filing and closing.

Notice:

Whenever it will be necessary for either party to serve notice on the other respecting the Agreement, such notice will be served by personal delivery or by certified mail to the following addresses, unless and until different addresses may be furnished in writing by either party or the other, and such notice will be deemed to have been served within seventy-two (72) hours after the same has been deposited in a United States Post Office by certified mail or has been delivered personally, and will be valid and sufficient service of notice for all purposes:

CITY: City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

VENDOR: Will be determined upon award of contract.

Notice of Intent to Award:

Approximately two (2) weeks prior to the anticipated City Council meeting awarding a contract as a result of the RFP, the City will notify all proposer's of its intent to award. Results will be posted on the City of Torrance Web site http://www.torranceca.gov/PDF/Recommendation_to_Award_Notification.pdf and **Residential Street Rehabilitation, I-94 (Area C)** project website at <http://www.torranceca.gov/23009.htm>.

City of Torrance Bid/RFP Protest Procedures:

The City of Torrance Bid/RFP Protest Procedures may be found on the City of Torrance Web site: http://www.torranceca.gov/PDF/Bid_RFP_Protest_Procedures.pdf

SECTION II TECHNICAL REQUIREMENTS

Overview/Introduction:

The City of Torrance is requesting proposals from qualified firms for **Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C)**.

The condition of the residential streets bound by Dominguez Way, Van Ness Avenue, Torrance Blvd, and the BNSF Railroad and Bow Avenue have deteriorated, and present a significant maintenance problem. Improvements will consist of edge reconstruction, pavement milling and overlay with minimal localized pavement reconstruction and repairs to displaced concrete curb, gutter, sidewalks, driveway aprons and cross-gutters. This project also includes the repair of various cross-gutters City-wide and pavement repairs of Crenshaw Blvd at Carson Street. Project documents are available on the **Residential Street Rehabilitation, I-94 (Area C)** project website at <http://www.torranceca.gov/23009.htm>.

Construction on this project is anticipated to commence in April 2014 and continue through October 2014 with 150 working days.

This RFP is intended to be as descriptive as possible. However, Proposers may not take advantage of omissions or oversights in this document. Proposers must supply products and services that meet or exceed the requirements of this RFP. In the event of a dispute over installation or performance, the needs of the City of Torrance will govern.

Scope of Work:

A qualified Construction Inspector, at minimum, must be able to perform the following tasks/duties:

- Assist City staff with the overall construction management/inspection of this project.
- Monitor the Contractor's compliance with the project Contract, Specifications and NPDES/SWPPP Construction General Permit.
- Assist City staff with public relations, including distributing construction notices, and responding to inquiries of residents and the general public.
- Attend the pre-construction meeting, and subsequent weekly field meetings, as needed.
- Assist in the review of Contractor's submittals, including proposed construction schedules, and other submittals required by the project Plans and Specifications.
- Ensure the Contractor adheres to the approved construction schedule.
- Be present on the job site when construction is in progress, and when required.
- Provide assistance and direction to technicians performing materials tests, as needed.
- Measure and verify the project pay item quantities, in-place. All pay item quantities shall be confirmed with the Contractor prior to submission of invoice for payment.
- Review the Contractor's invoices.
- Assist in the review and processing of RFI, Change Orders, and approved Time and Materials work.
- Prepare daily inspection reports (Daily Activity Report, Weekly Statement of Working Days, etc.), as required for this project.
- Review traffic control and coordinate any adjustments, as needed.
- Identify items requiring corrective action by either the Contractor or City, and ensure
- Develop "Punch List" items and monitor corrections made.

The above list will be used to establish a baseline for construction inspection services required on **Residential Street Rehabilitation, I-94 (Area C) B2013-49** project.

Experience Required:

A qualified candidate shall have a minimum of 5 years experience with Public Works construction projects, including construction inspection experience street rehabilitation projects, and have completed at minimum, two (2) projects of similar work. Candidates shall be familiar with the Standard Specifications for Public Works Construction (SSPWC "Greenbook"), and the Standard Specification of the State of California Department of Transportation (Caltrans).

Proposal Submittal:

Interested Firms must submit an original plus four (4) printed copies of their proposal. Proposals shall include the following information in the ordered format outlined below:

- Complete Proposal
 - Cover Letter
 - Resumes of no more than three (3) qualified candidates/inspectors
 - Qualifications
 - List education, licenses, and/or certifications
 - Recent Inspection Experience
 - List similar projects - include project cost and completion dates
 - Describe relevant work performed on each project
 - Proposal Submittal (Section III)
 - Firm's Background and Recent Experience with Similar Projects (Include projects that proposed Project Manager has worked on)
 - Firm References
 - Candidate's References
 - Wage Rates (Prevailing) for weekdays, weekday overtime, Saturdays, Sundays, weekend day overtime.
 - Proposer's Affidavit (Attachment 1)
 - Addenda, if any issued by City
- Proposed Alternative Language to City's Pro Forma Consulting Services Agreement (if applicable)

RFP No. B2013-53

**RFP for Construction Inspection Services for
the Residential Street Rehabilitation, I-94 (Area C)**

SECTION III PROPOSAL SUBMITTAL

FAILURE TO COMPLETE ALL ITEMS IN THIS SECTION MAY INVALIDATE PROPOSAL.

In accordance with your "Request for Proposals (RFP)", the following proposal is submitted to the City of Torrance.

RFP Submitted By:

Name of Company

Street Address

City

Zip Code

Telephone Number

Fax Number

Printed Name/Title

E-Mail Address

Signature

Date

Form of Business Organization: Please indicate the following (check one);

☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other: _____

Do you have a Parent Company?: ☐ No ☐ Yes, _____
(Name of Parent Company)

Do you have any Subsidiaries?: ☐ No ☐ Yes, _____
(Name of Subsidiary Company)

Business History:

Years in business under your current name and form of business organization? _____ Years

If less than three (3) years and your company was in business under a different name, what was that name?

Contact for Additional Information:

Please provide the name of the individual at your company to contact for any additional information:

Printed Name

Title

Telephone

E-Mail Address

Addenda Received: Please indicate addenda information you have received regarding this RFP:

| Addendum No. | Date Received |
|--------------|---------------|
| | |
| | |

| Addendum No. | Date Received |
|--------------|---------------|
| | |
| | |

☐ No Addenda received regarding this RFP.

Payment Terms: The City of Torrance Payment terms are Net 30. The City does not make pre-payments, or pay upon receipt.

Do you offer any discounted invoice terms? _____

Project Start and Completion:

The City requires the project to start as soon as possible from the award of a contract and the project completed as soon as possible. Specific time frames that are mutually agreed upon will be established after award of a contract.

Project Manager:

Please provide the name of the individual at your company who will serve as Project Manager for this contract.

| | |
|------------------|---------------|
| _____ | _____ |
| Name | Title |
| _____ | _____ |
| Telephone Number | Email Address |
| _____ | _____ |
| Fax Number | |

Contract Representative:

Please provide the name of the individual at your company who will be responsible for administering this contract.

| | |
|------------------|---------------|
| _____ | _____ |
| Name | Title |
| _____ | _____ |
| Telephone Number | Email Address |
| _____ | _____ |
| Fax Number | |

Proposal Submittal (continued):

Vendor Name: _____

Firm's Background and Recent Experience with Similar Projects:

In the space below, please provide a narrative explaining your firm's background and recent experience with similar projects as the scope of work identified in this RFP. Please include projects the proposed Project Manager worked on. If you require more space, you may attach additional sheets to you proposal submittal.

UNOFFICIAL

Proposal Submittal (continued):

Vendor Name: _____

Firm's References:

Provide at least three references for the proposed Firm/Project Manager; projects should be similar in size and operation to the City of Torrance project. California Municipal governments are preferable.

1. _____
Company Name

Street Address City State Zip Code

Contact Name Telephone Number

2. _____
Company Name

Street Address City State Zip Code

Contact Name Telephone Number

3. _____
Company Name

Street Address City State Zip Code

Contact Name Telephone Number

Proposal Submittal (continued):

Candidate's Name: _____

Candidate's References:

Provide at least three references for each proposed Candidate/Inspector; projects should be similar in size and operation to the City of Torrance project. California Municipal governments are preferable. (For additional candidates, add pages.)

1. _____
Company Name, Project

Street Address City State Zip Code

Contact Name Telephone Number

2. _____
Company Name, Project

Street Address City State Zip Code

Contact Name Telephone Number

3. _____
Company Name, Project

Street Address City State Zip Code

Contact Name Telephone Number

Proposal Submittal (continued):

Vendor Name: _____

| RFP Submittal Requirement and Acknowledgement | |
|--|---|
| Vendors are required to answer each of the questions listed below. You must indicate below that you have provided this information in your proposal submittal. You must attach additional sheets to your RFP submittal describing in detail the service you are proposing. | |
| RFP Scope of Work Questions | Indicate what page in your proposal you have answered this question. |
| Did you include original and 4 copies of your RFP Submittal? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Did you include a signed Affidavit Form with your RFP Submittal? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Did you attach additional sheets to answer the Background and Recent Experience with Similar Projects information on page <u>11</u> of this RFP? | <input type="checkbox"/> Yes <input type="checkbox"/> No Page ____ of our submittal. |
| Did you include all addenda if any issued by the City? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Did you include resumes of no more than three (3) qualified candidates? | <input type="checkbox"/> Yes <input type="checkbox"/> No Page ____ of our submittal. |
| Did you include References (for the Firm and for each Candidate)? | <input type="checkbox"/> Yes <input type="checkbox"/> No Pages ____ of our submittal |
| Are your Wage Rates (Prevailing) Included? | <input type="checkbox"/> Yes <input type="checkbox"/> No Page ____ of our submittal. |
| Have you included Proposed Alternative Language to City's Pro Forma Consulting Services Agreement (if applicable) | <input type="checkbox"/> Yes <input type="checkbox"/> No Page ____ of our submittal |

| Wage Rates (Prevailing): Price Proposal Cost Breakdown To Provide the Services Required in this RFP | | | |
|---|------------------------|--------------------|------|
| Description | Estimated No. of Hours | Labor Cost/hr (\$) | Cost |
| Inspector's Weekday Rate | 1192 | \$ | \$ |
| Inspector's Weekday OT Rate | 16 | \$ | \$ |
| Inspector's Saturday Rate | 16 | \$ | \$ |
| Inspector's Sunday Rate | 8 | \$ | \$ |
| Inspector's Weekend OT Rate | 6 | \$ | \$ |
| Project Manager Rate (as needed) | 30 | \$ | \$ |
| Other Costs (If used, please describe) | | \$ | \$ |
| Total Price Proposal | | | \$ |

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ATTACHMENT 1
PROPOSER'S AFFIDAVIT

_____ being first duly sworn deposes and says:

1. That he/she is the _____ of _____
(Title of Office) (Name of Company)

Hereinafter called "proposer", who has submitted to the City of Torrance a proposal for

RFP for Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C), B2013-53
(Title of RFP)

2. That the proposal is genuine; that all statements of fact in the proposal are true;

3. That the proposal was not made in the interest or behalf of any person, partnership, company, association, organization or corporation not named or disclosed;

4. That the Proposer did not, directly or indirectly, induce solicit or agree with anyone else to submit a false or sham proposal, to refrain from proposing, or to withdraw his proposal, to raise or fix the proposal price of the Proposer or of anyone else, or to raise or fix any overhead, profit or cost element of the Proposer's price or the price of anyone else; and did not attempt to induce action prejudicial to the interest of the City of Torrance, or of any other Proposer, or anyone else interested in the proposed contract;

5. That the Proposer has not in any other manner sought by collusion to secure for itself an advantage over the other Proposer or to induce action prejudicial to the interests of the City of Torrance, or of any other Proposer or of anyone else interested in the proposed contract;

6. That the Proposer has not accepted any proposal from any subcontractor or materialman through any proposal depository, the bylaws, rules or regulations of which prohibit or prevent the Proposer from considering any proposal from any subcontractor or material man, which is not processed through that proposal depository, or which prevent any subcontractor or materialman from proposing to any contractor who does not use the facilities of or accept proposals from or through such proposal depository;

7. That the Proposer did not, directly or indirectly, submit the Proposer's proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of Torrance, or to any person or persons who have a partnership or other financial interest with said Proposer in its business.

8. That the Proposer has not been debarred from participation in any State or Federal works project.

Dated this ____ day of _____, 20____.

(Proposer Signature)

(Title)

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Insert name and business entity description, i.e. XYZ Corporation, a California Corporation ("CONSULTANT").

RECITALS:

- A. The CITY wishes to retain the services of an experienced and qualified CONSULTANT to perform construction inspection services.
- B. In order to obtain the desired services, the CITY has circulated its Request for Proposal for Construction Inspection Services for the Residential Street Rehabilitation, I-94 (Area C), RFP No. 2013-53 (the "RFP").
- C. CONSULTANT has submitted a Proposal (the "Proposal") in response to the RFP. In its Proposal CONSULTANT represents that it is qualified to perform those services requested in the RFP. Based upon its review of all proposals submitted in response to the RFP, the CITY is willing to award the contract to CONSULTANT.

AGREEMENT:

1. SERVICES TO BE PERFORMED BY CONSULTANT

CONSULTANT will provide the services and install those materials listed in CONSULTANT's Proposal submitted in response to the RFP. A copy of the RFP is attached as Exhibit A. A copy of the Proposal is attached as Exhibit B.

2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through

3. COMPENSATION

A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the compensation schedule set forth in the Proposal; provided, however, that in no event will the total amount of money paid the CONSULTANT, for services initially contemplated by this Agreement, exceed the sum of \$Insert dollar amount ("Agreement Sum"), unless otherwise first approved in writing by the CITY.

B. Schedule of Payment.

Provided that the CONSULTANT is not in default under the terms of this Agreement, upon presentation of an invoice, CONSULTANT will be paid monthly, within 30 days after the date of the monthly invoice.

4. **TERMINATION OF AGREEMENT**

A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONSULTANT will:
 - a. cease operations as directed by CITY in the notice;
 - b. take actions necessary, or that CITY may direct for the protection and preservation of the work; and
 - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONSULTANT will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONSULTANT, the CITY may, at the expense of the CONSULTANT and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONSULTANT under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONSULTANT and its surety from liability for the default. Under these circumstances, however, the CONSULTANT and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.
3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONSULTANT or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONSULTANT or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the City determines to be so serious and compelling as to affect CONSULTANT's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONSULTANT has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONSULTANT authorizes the CITY to deduct from any amount payable to CONSULTANT (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate the CITY for any losses, costs, liabilities, or damages suffered by the CITY, and all amounts for which the CITY may be liable to third parties, by reason of CONSULTANT's acts or omissions in performing or failing to perform CONSULTANT's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONSULTANT, or any indebtedness exists that appears to be the basis for a claim of lien, the CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of the CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONSULTANT to insure, indemnify, and protect the CITY as elsewhere provided in this Agreement.

7. **THE CITY'S REPRESENTATIVE**

Public Works Director is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by the CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONSULTANT.

8. **CONSULTANT REPRESENTATIVE(S)**

The following principal(s) of CONSULTANT are designated as being the principal(s) and representative(s) of CONSULTANT authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

9. **INDEPENDENT CONTRACTOR**

The CONSULTANT is, and at all times will remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents will have control over the conduct of the CONSULTANT or any of the CONSULTANT's employees, except as otherwise set forth in this Agreement. The CONSULTANT may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the CITY.

10. **BUSINESS LICENSE**

The CONSULTANT must obtain a City business license prior to the start of work under this Agreement, unless CONSULTANT is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

CONSULTANT warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, CONSULTANT warrants that CONSULTANT (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONSULTANT warrants that CONSULTANT has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONSULTANT discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONSULTANT must immediately inform the CITY of that fact and may not proceed except at CONSULTANT's risk until written instructions are received from the CITY.

13. **CARE OF WORK**

CONSULTANT must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by the CITY, except those losses or damages as may be caused by the CITY's own negligence.

14. **CONSULTANT'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONSULTANT's time pertaining to the project, and records of accounts between the CITY and the CONSULTANT, will be kept on a generally recognized accounting basis. CONSULTANT will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to the CITY during normal working hours. CONSULTANT will maintain these records for three years after final payment.

15. INDEMNIFICATION

CONSULTANT will indemnify, defend, and hold harmless CITY, the Redevelopment Agency of the City of Torrance, the City Council, each member thereof, present and future, members of boards and commissions, its officers, agents, employees and volunteers from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONSULTANT, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONSULTANT's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONSULTANT will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONSULTANT will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. NON-LIABILITY OF THE CITY'S OFFICERS AND EMPLOYEES

No officer or employee of the CITY will be personally liable to CONSULTANT, in the event of any default or breach by the CITY or for any amount that may become due to CONSULTANT.

17. INSURANCE

A. CONSULTANT must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

- (1) Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - (a) Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - (b) Primary Property Damage of at least \$250,000 per occurrence; or
 - (c) Combined single limits of \$1,000,000 per occurrence.
- (2) General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
- (3) Professional liability insurance with limits of at least \$1,000,000 per occurrence.

- (4) Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONSULTANT will be primary and non-contributory.
- C. CITY ("City of Torrance"), the Redevelopment Agency of the City of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.
- D. CONSULTANT must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.
- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. SUFFICIENCY OF INSURERS

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of the CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONSULTANT agrees that the minimum limits of any insurance policies and/or performance bond required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONSULTANT will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of the CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. **NOTICE**

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
- (1) Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 - (2) First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 - (3) Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
 - (4) Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
 - (5) Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

CONSULTANT:

Fax:

CITY:

City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. **PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either the CITY or CONSULTANT without the prior written consent of the other.

22. **INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of the CITY and CONSULTANT as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. **INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. **SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. **TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

26. **GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. **COMPLIANCE WITH STATUTES AND REGULATIONS**

CONSULTANT will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. **WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. **ATTORNEY'S FEES**

Except as set forth in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. EXHIBITS

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. CONSULTANT'S AUTHORITY TO EXECUTE

The person(s) executing this Agreement on behalf of the CONSULTANT warrant that (i) the CONSULTANT is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONSULTANT; (iii) by so executing this Agreement, the CONSULTANT is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONSULTANT is bound.

CITY OF TORRANCE,
a Municipal Corporation

Insert name of business
Insert type of entity

Frank Scotto, Mayor

By: _____
Insert Name and Title

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

Attachments: Exhibit A: RFP
 Exhibit B: Proposal

Revised... 10/29/2008

EXHIBIT A
REQUEST FOR PROPOSALS

[To be attached]

EXHIBIT B
PROPOSAL
[To be attached]